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# SUPREME COURT OF THE UNITED STATES.

No. ~~346~~. 175-97.

THE UNITED STATES, APP'TS,

vs.

MARIANO G. VALLEJO.

APPEAL FROM THE DISTRICT COURT U. S. FOR THE NORTHERN DISTRICT OF CALIFORNIA.

G. S. GIDEON, Printer, 511 Ninth street, Washington.

affirmed Mayn

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OFFICE OF THE BOARD OF COMMISSIONERS
*To ascertain and settle private land claims in the State of Cal'a.*

Be it remembered, that on this second day of March, anno Domini one thousand eight hundred and fifty-three, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Mariano G. Vallejo, for the place named "Agua Caliente," was presented, and ordered to be filed and docketed with No. 741, and is as follows, to wit:

(Vide page 3 of this Transcript.)

Upon which petition the following subsequent proceedings were had, in their chronological order, to wit:

SAN FRANCISCO, *April 11th*, 1854.

Case No. 741, Mariano G. Vallejo, for the place named "Agua Caliente," was called, and, for want of counsel for the claimant, ordered to be placed at the foot of the calendar of the 1st class cases on the trial docket.

SAN FRANCISCO, *July 18th*, 1854.

Case No. 741 was submitted under the rule of March 21st last.

SAN FRANCISCO, *Aug. 1st*, 1854.

In the same case, Commissioner Alpheus Felch delivered the opinion of the board, rejecting the claim.

(Vide page 5 of this Transcript.)

SAN FRANCISCO, *August 15th*, 1854.

In the same case, on motion of the United States law agent, the following order was made, to wit:

(Vide page 6 of this Transcript.)

*Petition.*

To the Honorable Commissioners to settle private land claims in California:

The petitioner, Mariano G. Vallejo, respectfully represents, that on the 13th day of July, A. D. 184 , Juan B. Alvarado, governor of California, by virtue of authority in him, granted to Lazaro Piña the tract of land called "Agua Caliente," in the present county of Sonoma, with the boundaries described in the

grant and the map, in the espediente filed in the archives of the former government, now in charge of the U. S. surveyor general; which grant was approved by the departmental assembly and the possession given in due form.

That on the 4th day of December, A. D. 18 , the said Lazaro Piña sold and conveyed the said tract of land to the petitioner, all of which is fully shown by the original title papers, the espediente, and the deed of transfer, which he begs leave to file as evidence in support of this claim.

And the petitioner further represents, that he and those under whom he holds have been for some fourteen or fifteen years, and that the petitioner now is, in the possession and occupation of said tract of land.

Wherefore he prays the commissioners, in the final hearing of this petition and the evidence adduced in its support, to confirm to him the said tract of land.

By his Attorneys, HALLECK, PEACHY, & BILLINGS.

Filed in office March 2d, 1853.

GEO. FISHER,
*Secretary.*

*Notice.*

No. 741.—Claim of M. G. Vallejo to Agua Caliente.

To the UNITED STATES LAW AGENT:

SIR: Please to take notice that we are no longer attorneys in this case, our names being hereby withdrawn from the record.

Very respectfully, your obd't servants,
HALLECK PEACHY, & BILLINGS.

San Francisco, February 14th, 1854.

Received notice.

R. GREENHOW,
*Asst. Law Agent.*

Filed in office February 14th, 1854.

GEO. FISHER, *Sec'y.*

*Opinion.*

For the place called "Agua Caliente," situated in Sonoma county.

MARIANO G. VALLEJO
vs.
THE UNITED STATES.

This claim is founded on an alleged grant made by Governor Juan B. Alvarado to Lazaro Piña on the 13th day of July, 1840, and a subsequent conveyance of the premises by said Piña to the petitioner. No such grant or conveyance is given in evidence, and

no proof is offered tending to show that either Piña or the petitioner ever had any interest in the premises claimed.

There can be of course no confirmation of the claim.

Rejected.

Filed in office August 1st, 1854.

GEO. FISHER, *Sec'y.*

*Decree.*

MARIANO G. VALLEJO
vs.
THE UNITED STATES.

In this cause, on hearing the proofs and allegations, it is adjudged by the commission that the claim of the said petitioner is not valid, and it is therefore decreed that his application for a confirmation thereof be denied.

ALPHEUS FELCH,
R. AUG. THOMPSON,
S. B. FARWELL,
*Commissioners.*

Filed in office August 1st, 1854.

GEO. FISHER, *Sec'y.*

*Order.*

And it appearing to the satisfaction of this board that the land hereby adjudicated is situated in the northern district of California, it is hereby ordered that two transcripts of the proceedings and of the decision in this case, and of the papers and evidence upon which the same are founded, be made out and duly certified by the secretary; one of which transcripts shall be filed with the clerk of the United States district court for the northern judicial district of California, and the other be transmitted to the Attorney General of the United States.

*Secretary's Certificate.*

OFFICE OF THE BOARD OF COMMISSIONERS
*To ascertain and settle the private land claims in the State of Cal'a.*

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the forgoing six pages, numbered from one to six, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings and of the decision of the said board, of the documentary evidence and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 741 on the docket of the said board, wherein Mariano G. Vallejo is the claimant against the United States, for the place known by the name of "Agua Caliente."

In testimony whereof, I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, California, this thirtieth day of December, A. D. [SEAL.] 1854, and of the independence of the United States of America the seventy-ninth.

GEO. FISHER, *Sec'y.*

Endorsed: Filed January 9th, 1855.

JOHN A. MONROE, *Clerk.*

*Notice of Appeal.*

In the District Court of the United States for the northern district of California.

M. G. VALLEJO vs. THE UNITED STATES. } Transcript No. 153.

To the UNITED STATES DISTRICT ATTORNEY:

SIR: Please take notice, that the claimant in this case appeals from the decision of the United States land commission rejecting his claim, and will present his petition to the district court for a review of the same, and for a confirmation of his claim upon further evidence to be adduced.

BLANDING, CALHOUN, & WISE,
*For Claimant.*

July 5th, 1855.

Service acknowledged this July 6th, 1855.

A. GLASSELL,
*Ass't U. S. Attorney.*

Endorsed: Filed July 6th, 1855.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

*Petition on Appeal.*

MARIANO G. VALLEJO vs. THE UNITED STATES. } Transcript No. 153.

To the Judge of the District Court for the northern district of California:

The petition of Mariano G. Vallejo respectfully showeth, that your petitioner, on the second day of March, in the year of our Lord one thousand eight hundred and fifty-three, filed his claim in the United States land commission for California for the confirmation of his title to a tract of land or rancho situated in the present county of Sonoma, and known as the "Agua Caliente" tract.

That his claim was founded upon a grant of said tract by Juan B. Alvarado, then governor of California, to Lazaro Piña on the

thirteenth day of July, in the year of our Lord one thousand eight hundred and forty, and by said Lazaro Piña conveyed to your petitioner by deed dated the fourth day of December, in the year of our Lord one thousand eight hundred forty-nine.

That on the hearing of the case by the board of land commissioners the claim was rejected for want of proper proofs, and not upon the merits, and your petitioner, for a description of the land claimed and the title thereto, specially refers to the petition filed in the claim presented to the board.

That the transcript from the land commission was filed in this court on the ninth day of January, in the year of our Lord one thousand eight hundred and fifty-five, and notice of appeal has been regularly served upon the United States district attorney.

Your petitioner therefore prays this honorable court for a review of the decision of the board of land commissioners, a revival of the same, and that his title to the said tract may be confirmed by the proper decree.

BLANDING, CALHOUN & WISE,
*For Claimant.*

Service acknowledged July 6th, 1855.

A. GLASSELL,
*Ass't U. S. Att'y.*

Endorsed: Filed July 6th, 1855.

JOHN A. MONROE,
*Clerk.*

In the District Court of the United States for the northern district of California.

THE UNITED STATES ads. M. G. VALLEJO. } D. C. 153.—L. C. 741.

The United States, by their attorney, deny the validity of the title set forth in the petition of the appellant, and pray that the decision of the United States land commission be affirmed, and that the said title be decreed invalid.

San Francisco, February 12th, 1857.

WM. BLANDING,
*U. S. Att'y.*

Endorsed: Filed February 12th, 1857.

JOHN A. MONROE,
*Clerk.*

*Exhibit "A, W. H. C."*

Espediente promobido por el ciudadano Lasaro Piña en pretencion del terreno conocido con el nombre conoci la "Agua Caliente."

(229.)

S'r Prefecto del 1er Distrito en la Alta California:

Lazaro Piña Mejicano por nacemiento, sargento 2o de artilleria permanente y recidente en este departamento ha veinte un años, ante V. S. como mas halla lugar en derecho, digo. Que habiendoseme consedido por el S'or comandante general (a reserva de solicitar del gobierno los titulos de d'ho como consta del documento que acompaño) el terreno conocido con el nombre de la Agua Caliente, y deseando, para mi mayor resguardo y seguridad, recabar la propriedad del citado terreno, cuyo diseño tambien acompaño.

A. V. S. suplico se sirba prover en justicia a fin de que me sea librado por el gobierno del departam'to el titulo de propriedad del terreno que solicito, sirviendose admitirme este en papel comun por no haber en este punto del sello que corresponde. Juro lo necesario, &c.

Sonoma, Junio 25 de 1840.

LAZARO PIÑA.

Ex'mo S'or Gobernad'r:

Visto lo contenido en esta instancia y el parecer del S'or comand'te general eleverie al Ex'mo S'or gob'or de departam'to ante quien por via de informe expongo. Que el interesado en esta solicitud obtiene los requisitos legales pa. ser atendido y que el terreno que pretende se halla baldio y puede serle concedido en propriedad dejandole a la deliveralidad de V. E.

San Juan de Castro, 9 de Julio de 1840.

JOSÉ MA. VILLAR'D.

S'or Comand'te G'ral.

Lazaro Piña, sargento 2o de artilleria, permanente ante V. S. con el debido respeto y en la mejor forma me presento y digo: Que hallandome con numerosa familia, y teniendo algunos bienes de campo caxesco de un terreno en que poder rachicarme para asegurar en lo futuro la precisa subsistancia en cuanto me sea posible; para cuyo efecto he registrado y solicito un terreno en la estencion de dos leguas y media y un cuarto de legua de ancho, conocido con el nombre de la "Agua Caliente," situado al N. O. de San Solano, lindando al sud ueste con el arroyo que separa la propriedad del S'or comand'te G'ral D. Mariano Guadalupe Vallejo, al sudeste con la poblacion de Sonoma, al norte con las lomas y cerros que median y dividen el rancho de Jorge Yount y al noro este, con el rancho de Don Juan Wilson por lo tanto.

A. V. S. suplica se sirva acceder a mi solicitud en lo que recibire merced y gracia, juro no ser de malicia y lo necesario, &c.

Sonoma, Octubre 14, de 1839.

LAZARO PIÑA.

SONOMA, *Octubre* 13 *de* 1839.

Se concede al interesado el terreno q. solicita a reserva de solicitar del gob'o politico los titulos de estilo.

M. G. VALLEJO.

Por no haber papel sellado, biene en comun.

[*Here follows map.—See original, page* 12.]

MONTEREY, 13 *de Julio, de* 1840.

Vista la peticion con que da principio este espediente el paresen del S. comand'te g'ral y el informe del S. prefecto del 1er distrito con todo lo demas que se tubo presente y ver combino, de conformidad con las leyes y reglam'tos de las materia declaro al ciud'no Lazaro Piña diseño en propriedad del parage conocido con el nombre de Agua Caliente, colindante al sudeste con el arroyo del rancho de Petaluma, al S. E. con el pueblo de Sonoma al N. con las lomas y serros que median y divider el rancho de Jorge Yunte, y al N. O. con el rancho de Don Juan Wilson librese el despacho correspondiente tomese razon en el libro respectivo y dirijase este espediente a la ex'ma junta departamental para su aprovasion.

El S'or Don Juan B. Alvarado, gob'dor constitucional del departam'to de las Californias asi lo mando decreto y firmo doy fee.

Angeles, Octubre 3, de 1845.

Dado cuenta en sesion de hoy con este espediente de la ex'mas asamblea departamental le mando pasar a la comision de terrenos baldios.

PIO PICO, *Presid't.*

AGUSTIN OLVERA.

EX'MO S'OR: La comision de terrenos baldios ha visto con el necesario determin'to el esped'te promovido por Co. Lazaro Piño en pretencion del parage conocido por de "la Agua Caliente" y no existen en todo el otro docum'to q. indigue la estencion del paraje d'ho, sino la solicitud del interesado pues el diseño q. corre en el referido espediente no se halla sujeto a escala alguna y el decreto de concesion no espresa la cantidad de sitios de que fue hecha la comision funda su dictamen de aprobacion en solo la estencion solicitada q. es de dos y media leguas de largo y un cuarto de legua de ancho, pues no es de mponerse haya agraciado el gob'o al

interesado en mayor estencion q. la solicitada y por consig'te la comision somete a la decision de V. E. la proposicion siguiente.

Se aprueba la concesion hecha por el sup'r gob'o del depart'o con f'ha 13 de Julio, de 1840, en favor del C'o Lazaro Piña, del parage de la Agua Caliente en estencion de dos y media leguas de largo y un cuarto de legua de ancho.

Sala de comisions, Angeles, Octubre 7, de 1845.

NARCISO BOTELLOS.

FRAN'CO DE LA GUERRA.

ANGELES, *Octubre* 8, *de* 1845.

En session de hoy se aprobo por la ex'ma asamblea departamental la proposicion del dictamen presedente mandando se devuelva el espediente original al S. E. gobernador para los fines convenientes.

PIO PICO, *Presidente.*

AGUSTIN OLVERA, *S'rio.*

En la fecha se libro a la parte la copia respectiva.

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, J. W. Mandeville, surveyor general of the United States for the State of California, and as such, having in my office and in my charge and custody a portion of the archives of the former Spanish and Mexican territory or department of Upper California, as also the papers of the late board of commissioners "to ascertain and settle private land claims in California," by virtue of the power vested in me by law, do hereby certify that the eight (8) preceding and hereunto annexed pages of tracing paper, numbered from one to eight inclusive, exhibit a true and accurate copy of espediente number 229, entitled as follows:

Espediente promobido por el ciudadano Lazaro Piña en pretencion del terreno conocido con el nombre conoci la Agua Caliente.

In testimony whereof, I have hereunto signed my name officially, and caused my seal of office to be affixed, at the city of San Francisco, this 7th day of June, A. D. 1858.

[SEAL.]

J. W. MANDEVILLE,
*U. S. Surveyor General for California.*

Endorsed: Filed August 31, 1858.

W. H. CHEVERS, *Clerk.*

*Translation of "Exhibit 'A,' W. H. C."*

Espediente instituted by the Citizen Lazaro Piña, petitioning for the tract of land known by the name, **Conoci la* Agua Caliente.

(229.)

*These two words, conoci la, to be found in the traced copy from which this translation is made, are evidently written by mistake, and are superfluous.

Mr. Prefect of the 1st District, in Upper California:

I, Lazaro Piña, a Mexican by birth, second sergeant of the permanent artillery, and a resident of this department for twenty-one years, before your lordship, as may be most in accordance with law, represent: that there having been granted to me by the commandant general (with reservation of soliciting from the government the usual titles, as appears from the document which I annex) the tract of land known by the name of the "Agua Caliente," and wishing, for my greater protection and security, to acquire the ownership of the said land, the sketch whereof I also annex, I pray your lordship will be pleased to make such lawful provision, that the title of ownership of the land for which I petition may be issued to me by the government of the department, having the goodness to receive this upon common paper, as there is none of the proper stamp to be had at this place. I make the necessary oath, &c.

LAZARO PIÑA.

Sonoma, June 25th, 1840.

Most Excellent Mr. Governor:

Having seen the contents of this application and the opinion of the commander general, let it be carried up to the most excellent governor of the department, before whom, by way of report, I make known, that the party interested in this petition possesses the legal requisites entitling him to be heard, and that the land which he applies for is vacant and can be granted to him as owner, leaving it to your excellency's deliberation.

JOSÉ MA. VILLAR'D.

San Juan de Castro, 9th of July, 1840.

Mr. Commandant General:

I, Lazaro Piña, second sergeant of permanent artillery, before your lordship with due respect, and in all proper form, present myself and say, that, finding myself with a numerous family, and having some field property, (bienes de campo,) I am in want of a piece of land where I can settle myself, in order to secure, so far as may be possible for me, the necessary subsistence for the future. To this end I have examined and do petition for a tract of land of two leagues and a half in extension and a quarter of a league in width, known by the name of the "Agua Caliente," situated to the northwest of Saint Solano, bordering on the southwest with the rivulet (arroyo) which separates the property of Mr. Commandant General Don Mariano Guadalupe Vallejo, on the southeast with the town of Sonoma; on the north with the hills and mountains which intervene and separate the rancho of George Yount, and on the northwest with the rancho of Mr. John Wilson.

Therefore I pray your lordship will be pleased to accede to my petition, in which I shall receive benefit and favor.

I swear it is not in bad faith, and whatsoever is necessary.

LAZARO PIÑA.

Sonoma, October 14th, 1839.

SONOMA, *October 13th*, 1839.

Concession is made to the party interested, of the land he applies for, with reservation of petitioning from the political government the usual titles.

MARIANO G. VALLEJO.

In the absence of stamped paper, this comes upon common.

[*Here follows a sketch of the land.*]

[The sketch referred to did not accompany this transcript.
W. T. C.]

MONTEREY, 13*th July*, 1840.

The petition with which this espediente is commenced, the opinion of the commandant general, and the report of the prefect of the first district, having been seen, together with everything else which was considered and proper to observe, in conformity with the laws and regulations upon the matter, I declare the citizen Lazaro Piña to be the owner in proper right of the place known by the name of "Agua Caliente," conjoining on the southwest with the rivulet (arroyo) of the rancho of Petaluma; on the southeast with the town of Sonoma; on the north with the hills and mountains which intervene and separate the rancho of George Yount, and on the northwest with the rancho of Mr. John Wilson.

Let the suitable warrant issue, account thereof be taken in the proper book, and let this espediente be directed to the most excellent departmental "junta" for its approval.

Mr. John B. Alvarado, constitutional governor of the department of the Californias, so ordered, decreed and signed the same.

I certify.

ANGELES, *October 3d*, 1845.

Report having been made upon this espediente, in to-day's session of the most excellent departmental assembly, it was ordered to be passed to the commission on vacant lands.

PIO PICO, *President.*
AGUSTIN OLVERA,
*Secretary.*

Most Excellent Sir:

The commission on vacant lands has examined with all the de-

liberation necessary, the espediente instituted by the citizen Lazaro Piña, petitioning for the place known by the name of the "Agua Caliente," and as there does not appear in it anywhere other document which indicates the extent of the place mentioned, than the petition of the party interested, for the sketch making part of the said espediente is not made to conform to any scale whatsoever, and the decree of concession does not express the number of leagues (sitios) of which it was composed, the commission founds its opinion of approval upon solely the extent petitioned for, which is of two and a half leagues in length and a quarter of a league in breadth; for it is not to be supposed that the government has favored the party interested with a greater extent than that petitioned for, and therefore the commission submits for the decision of your excellency the following proposition:

Approval is given to the grant made by the superior government of the department, under date 13th July, 1840, in favor of the citizen Lazaro Piña, for the place called the "Agua Caliente," in extent of two and a half leagues long and a quarter of a league wide.

NARCISO BOTELLO.

FRANCISCO DE LA GUERRA.

Commission Chamber, Angeles, October 7th, 1845.

ANGELES, *October 8th*, 1845.

At this day's session the most excellent departmental assembly approved the foregoing proposition of the opinion, ordering that the original espediente be returned to his excellency, the governor, for the convenient purposes.

PIO PICO, *President.*
AGUSTIN OLVERA, *Sec'y.*

At this date the respective copy was issued to the party interested.

Endorsed: Filed August 31st, 1858.

W. H. CHEVERS, *Clerk.*

"*Exhibit B,—W. H. C.*"

Pio Pico, Gobernador Interino del Departamento de las Californias.

La Exma. Asamblea Departamental en sesion de hoy ha acordado lo siguiente:

Se aprueba, la concesion hecha por el Superior Gobierno del Departamento confecha 13 de Julio, de 1840, en favor del Ciudadano Lazaro Piña, del parage de la Agua Caliente en estencion de dos y media leguas de largo y un cuarto de legua de ancho.

Y para resguardo de la parte del Ciudadano Lazaro Piña lo hago asi saber dado en la ciudad de Los Angeles en este papel comun

por falta de sellado a ocho de Octubre de mil ochocientos cuarenta y cinco.

PIO PICO.

JOSÉ MA. COVARRUBIAS, *S'rio.*

El que suscribe certifica: que habiendo comprar legitima y formalm'te al C. Lazaro Piña el terreno de la Agua Caliente, a que se refiere la ant'r aprovasion de la Asamblea Departamental de la Alta Calif'a cedo y traspas todos los derechos que tengo al mencionado terreno, en favor de D. Andres Hoeppener, quien hara del el uso que mas le convenga. Y para los fines y usos necesarios doy este en Sonoma a 12 de Agosto, de 1846.

M. G. VALLEJO.

Testigo: A. A. HENDERSON,
*Ass't Surgeon U. S. Ship Portsmouth.*
JACOB P. LEESE.

Record in Monterey, ex. on Jan. 3, 1849, and the order for a title, the within approval and other papers, and a map from them.—A.

No. 760.

T. M. Leavenworth.—Agua Caliente.

Approval of grant, with transfer.
Filed for record, Dec. 29, 1848.

S. W. BOGGS, *Alcalde.*

Filed in office, Feb. 20, 1855.

GEO. FISHER, *Sec'y.*

Recorded in book C, page 85.

S. W. BOGGS.

Recorded in book of Rec. of Ev., vol. xvi, pages 531 and 532.

OFFICE OF THE SURVEYOR GENERAL
OF THE UNITED STATES FOR CALIFORNIA.

I, J. W. Mandeville, surveyor general of the United States for the State of California, and as such having in my office, and in my charge and custody, a portion of the archives of the former Spanish and Mexican Territory or Department of Upper California, as also the papers of the late board of commissioners "to ascertain and settle private land claims in California," by virtue of the power vested in me by law, do hereby certify that the three preceding and hereunto annexed pages of tracing paper, numbered from one to three inclusive, exhibit a true and accurate copy of a document, together with the endorsements thereon, as the same appears on file, in case No. 760, on the docket of said board of commissioners.

In testimony whereof I have hereunto signed my name
[SEAL.] officially, and caused my seal of office to be affixed at the city of San Francisco, this 8th day of June, A. D. 1858.

J. W. MANDEVILLE,
*U. S. Surveyor General for California.*

Endorsed: Filed August 31, 1858.

W. H. CHEVERS, *Clerk.*

*Translation of Exhibit "B, W. H. C."*

Pio Pico, Provisional Governor of the Department of the Californias.

The most excellent departmental assembly at this day's session has decided upon the following:

Approval is given to the grant made by the superior government of the department, under date 13th of July, 1840, in favor of the citizen Lazaro Piña, of the place of the Agua Caliente, in extent of two and a half leagues long and a quarter of a league wide.

And for security on behalf of the citizen Lazaro Piña, I thus make it known.

Given at the city of Los Angeles, upon this common paper, for want of stamped, on the eighth day of October, one thousand eight hundred and forty-five.

PIO PICO.

JOSÉ MA. COVARRUBIAS, *Sec'y.*

The undersigned certifies that, having legitimately and formally purchased from the citizen Lazaro Piña the tract of land of the "Agua Caliente," to which the preceding approval of the departmental assembly of Alta California has reference, I grant and transfer all the rights which I have in the land mentioned to Don Andres Hoeppener, who shall make such use thereof as may be most convenient to him.

And for the necessary purposes and uses, I give this at Sonoma, the 12th of August, 1846.

M. G. VALLEJO.

Witness: A. A. HENDERSON,
*Ass't Surgeon U. S. Ship Portsmouth.*
JACOB P. LEESE.

Endorsed: Filed August 31st, 1858.

W. H. CHEVERS, *Clerk.*

*Certified Copy of Deed from Pena to Vallejo.*

Sello Tercero—Dos Reales.

Para los años de mil ochocientos viente y seis y ochocientos viente y siete. Valga para los años de mil ochocientos viente y ocho y mil ocho-

cientos viente y nueve. Valga para los años de mil ochocientos trienta y mil ochocientos trienta y uno. Valga para los años de mil ochocientos trienta y seis y mil ochocientos trienta y siete. Valga para los años de mil ochocientos trienta y ocho y mil ochocientos trienta y nueve. En el pueblo de Sonoma de la Alta California a los cuatro dias del mes de Diciembre de mil ochocientos trienta y nueve, ante mi el Capitan D. Salvador Vallejo comandante militar ejerciendo la jurisdiction civil y testigos; Dn. Lazaro Piña vecino de dicho pueblo dijo; que por si y en nomre de sus herederos hijos y sucesores y de quien ellos hubieren voz y causa en cualesquiera manera; vende y da en venta real y en agenacion perpetua por uso de heredad para siempre Jamas al Sor. D. Mariano G. Vallejo, vecino tambien del mismo pueblo de Sonoma y a los suyos, el terreno de la "Agua Caliente" en cantidad de dos leguas y media de largo y un cuarto de ancho poco mas o menos, segun esplica el titulo que acompaña esta escritura, los que le pertenencia en posesion y propriedad, colindante con los Guidacas Petaluma, la poblacion de Sonoma y la serrania al norte; segun consta por dichos titulos de pertenencia respectivos por los cuales le corresponde en possesion y propriedad al otosgante, el cual declara y asegura no tenerla vendida ni empañada, y que esta libre de titulo, memoria, copellania, vinculo patronato, fianza y de otro grabamen perpetuas, temporal especial, general, tanto y espreso, y como tal se lo vende contodas sus entradas, solidas, fabricas, usos costumbres, regalias, servidumbres, demas cosas anexas que ha tenido, tiene y le pertenece segun derechos, por dos mil pesos que tiene, recibidas en pesos fuertes y bienes semovientes, siendo estas ultimas entragador por Francisco Jalapa, que el mismo confiese haber recibido, mitad por mitad, y renuncia la ley 9 ti'to 1o partida 5a, y asi mismo declara que el justo y pino y verdadero valor del referido tierreno, es la cantidad antes dicha de dos mil pesos y que no vale mas, ni hallo quien tanto le halla dado por el, y si mas vale o valer puede, del aseso en poca o mucha suma, hace a favor del comprador y de sus herederos y sucesores gracia y donacion pina, perfecta e irrevocable, en sanidad con insinuacion y demas firmases legales, y renuncia la ley 2d tit'o 1o, L. 10, N. R., que trata de las contratas de venta, que y de otras en que hoy lesion en mas o menos de la mitad del Justo pricio y los cuatro años que prefino para pedra su resision o suplemento a su justo valor, las que da por pasador como si efectiramente lo estubieren y desde hoy en adelante para siempre se desapodera, disista ginta y aparta y a sus herederos y susesores del dominio o propriedad, posesion titulo, vos recians y otro cualquiero derecho que le competa al enunciado terreno de la Agua Caliente lo cedo, renuncia, traspara en las acciones reales y personales utiles, mixtas, directas y ejecciones en el comprador y en quien la suya represente, para que lo posea, gose, cambie, enagene, uso y disponga de ella a su eleccion como de cosa suya adquereda con legitimo y justo

titulo y se confiesa poder irrevocable con libre fianca y general administracion y constituye procurador actor en propia causa para que de su autoridad entre y se opedese del nominador terreno, y presinda lo real tenencia y posesion que por derechos le compete, y para que no necesitar tomarlo mi pide que le de copia de esta escritura, con lo cual sin otro acto de aprehencion ha de ser visto haberla tomado aprehendido y transferidola; y en el interin se constituyo inquitino tenedor pruario posedor en legal forma y se obliga a que dicto terreno, sera cierto, seguro y efectuo al comprador y nadir inquietera ni movera playto sobre su propriedad posesion, gose, disfuto, ni contra el ejercicia gravamen alguno; y si se le inquietera moviere o apaiciera, luego que el otoryante y sus herederos, sucesores sean requiridas conforme a derecho, saldran a su defensa y lo seguiran a sus espensas en todas instancias y tribunales hasta ejecutoriarlo, y dejar al comprardor y a los suyos en su libre uso y quietud pacifica posesion, y no pudiendo consigicirlo le daran otro igual en valor de fabrica, sitio, renta y comodidades, y en su defecto lo restiturian la cantidad que ha desemboliado las mejoras utiles precisas y voluntarias que a la rason tengo al major valor y estimacion que con el tiempo adquero y todas las costas, gastos, daños, intereses o menos cobar que se le siguiren e irroguren; por todo lo cual ha de poder ejecutar solo en virtud de esta escritura y pruamente del que la posea, o de quien le represente en person defiere su importe y lo releva de otra prueba, y a la observancia de todo lo referido obliga su persona y bienes habidos y por haber; y confiera amplio poder a los Señores preces y tribunales de la nacion que de este negocio deban conocer conforma o derecho, para que le apressisen a su complimentos. Como por sentencia definila de juez. Competente pasado en autoridad de cosa pagado y consentido que por tal lo recibe.

LAZARO PIÑA.

Ante mi,

SALVADOR VALLEJO.

De Asistencia:

CAYETANO JUAREZ, de Asistencia.
FRANCISCO JALAPA,
MIGUEL ALVARADO,
JUAN N. PADILLA.

STATE OF CALIFORNIA,
*County of Sonoma, ss.*

I hereby certify that the foregoing is, to the best of my knowledge and belief, a full, true and correct copy of a record in book F, of Sonoma county records, on pages 41 and 42.

[SEAL.] Given under my hand and seal of office, this 10th day of July, A. D. 1858.

JOEL MILLER,
*County Recorder in and for said County.*

Endorsed: Filed August 31st, 1858.

W. H. CHEVERS, *Clerk.*

*Translation of Deed from Pena to Vallejo.*

Third Seal—Two Reales.

For the years one thousand eight hundred and twenty-six and eight hundred and twenty-seven; let it serve for the years one thousand eight hundred and twenty-eight, and one thousand eight hundred and twenty-nine; let it serve for the years one thousand eight hundred and thirty, and one thousand eight hundred and thirty-one; let it serve for the years one thousand eight hundred and thirty-six, and one thousand eight hundred and thirty-seven; let it serve for the years one thousand eight hundred and thirty-eight, and one thousand eight hundred and thirty-nine.

In the pueblo of Sonoma, in Upper California, on the 4th day of the month of December, 1839, before me, Captain D. Salvador Vallejo, military commander exercising civil jurisdiction, and witnesses, D. Lazaro Peña, resident of said pueblo, says that for himself, and his heirs, sons, and successors, and whom of them might have title, vote, and cause in any manner whatsoever, he sells and gives in real sale and perpetual alienation, by right of inheritance, for always and ever, to D. Mariano G. Vallejo, also resident of the same pueblo of Sonoma, and to his assigns, the tract of land of La Agua Caliente, in extent two and a half leagues in length and one quarter in width, a little more or less, as is shown in the title deed accompanying this writing, which belong to him in possession and ownership, bordering on las Guidacas Petaluma, the village of Sonoma and la Sonomia to the north, as is shown in the said respective title deeds of ownership, by which it belongs to him, the grantor, in possession and ownership, who declares and assures not to have sold or pledged it, and that it is free from any tribute, bill, benefice, entail, patronate, bond, or any other incumbrance, perpetual, temporal, general, tacit, and expressive, and as such he sells it with all its revenues, expenditures, building uses, customs, privileges, servitudes and other appurtenances which it has had, has, and belongs to it, according to law, for two thousand dollars, which he has received in lawful money and movable property, being this last delivered by Francisco Jalapa, which the same he confesses to have received half by half. He renounces the law of 9th ti'to 1o, partida 5a, and he likewise declares that the just price and the value of the said land is the aforesaid sum of two thousand dollars, and that it is not worth more, nor did he find anybody

willing to give him so much for it, and if it may or can be worth more of the excess in a little or large sum, he makes in favor of the purchaser and his heirs and successors gift and entire donation, perfect and irrevocable in vigor, with public exhibition before a judge and other legal firmnesses, and he renounces the law 2d, tit'o 1o, L. 10, N. R., treating of contracts of sale, exchange, and others in which there is damage in more or less than the half of the just price and the four years, preferring to demand its recision or supplement to its just value which he considers as if they were effectively repealed. And from to-day henceforward forever he dispossesses, releases, quits and parts himself, and his heirs and successors, of the dominion and ownership, possession, title, vote, recourse, and any other right whatsoever which might stand in competition to the said tract of land of la Agua Caliente.

He cedes, renounces, transfers it in the real, personal, useful, mingled, direct and executive causes of action in the purchaser, and in whom may represent his cause in order that he may possess, enjoy, exchange, alienate, use and dispose of it at his option, as a thing of his own, acquired by legitimate and just title. And he confers on him irrevocable power for free, independent and general administration, and constitutes him attorney proctor in his own cause, that under his authority he may enter and possess himself of the aforesaid land, and seize the real tenancy and possession which by right stands in opposition to him; and that he shall not need to take it, he asks me to give him a copy of this writing, with which, without any other act of seizure, has to be looked upon as being taken and seized and transferred, and in the mean time he is constituted its tenant, holder and possessor in legal form. And I bind myself that said land shall be certain, secure and effective to the purchaser, and nobody shall disturb him, nor institute lawsuit upon his ownership, possession, enjoyment, and usufruct, nor against it appear any incumbrance; and if he shall be disturbed, sued, or there shall appear any incumbrance, the grantor and his heirs and successors shall presently be required, conformable to law, to rally to his defence, and follow it up at their expense in all instances and tribunals until executed, and to leave the purchaser and his assigns in its free use and quiet and peaceable possession; and not being able to obtain it, they shall give him other equivalent in value of buildings, site, rent, and commodities, and in default thereof they shall restore the sum he has disbursed for the useful, necessary and voluntary improvements which in reason hereof he may have, to the highest value and estimate at the time acquired, and with all the costs, expenditures, damages, interests or deteriorations consequent thereon, for all of which he will have to be enabled to execute solely in virtue of this writing, and merely by him who may possess it, or whom may represent him to whom is yielded its import, and he is relieved from other proof.

And for the observance of all the foregoing, he binds his person and property which he has or may have, and he vests full power in the judges and tribunals of the nation who ought to take cognizance of this affair conformable to law, that they may construct him to its fulfilment, as by definitive sentence of a competent judge passed in authority of suit adjudged and consented, which, as such, he admits it.

LAZARO PINA.

Before me,

SALVADOR VALLEJO.

Attesting witnesses:
CAYETANO JUAREZ,
FRANCISCO JALAPA,
MIGUEL ALVARADO,
JUAN M. PADILLA.

Endorsed: Filed August 31st, 1858.
W. H. CHEVERS, *Clerk.*

*Deposition of T. M. Leavenworth.*

United States District Court, northern district of California.

THE UNITED STATES
vs.
M. G. VALLEJO.

SAN FRANCISCO, *Sept.* 3, 1858.

On this day, before W. H. Chevers, a commissioner of the United States for the districts of California, duly authorized to administer oaths, &c., &c., came T. M. Leavenworth, a witness produced on behalf of the claimant in case No. 153, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 741, on the docket of the said board of commissioners, and was duly sworn, and testified as follows:

Present, Wm. Blanding, for the claimant, and the U. S. district attorney.

*Questions by Claimant's Counsel.*

What is your name, age, and place of residence?

Answer. T. M. Leavenworth; about 50 years of age, and reside in Sonoma county, California.

2d question. Are you acquainted with the Agua Caliente rancho, in Sonoma county?

Answer. I am.

3d question. Did you ever own any part of that rancho?

Answer. I did.

4th question. Did you present a claim to the board of land commission for your portion of the ranch?

Answer. I did.

5th question. What has been the decision in your case?

Answer. It was confirmed both by the land commission and the district court, and the appeal dismissed by direction of the United States Attorney General, and a final decree entered by this court.

6th question. In the prosecution of your claim did you make a search for the grant to Lazaro Piña, of the Agua Caliente ranch?

Answer. I did.

7th question. Where was that search made, or in what way?

Answer. In the archives under the control of the United States surveyor general for this State. I made inquiries of Governor Alvarado, of Gen'l Vallejo, and of an officer who was local alcalde at Sonoma about the time the grant was made; I don't recollect his name; also of Hepner, of whom I purchased, and of other persons whose names I do not now remember. The result of this search was that Piña got the grant, went down to Mexico with it, and it was lost; it could not be found. He was killed in battle in Mexico—Churubusco, I think. He was an officer of the Mexican army.

8th question. Is Hepner alive now?

Answer. He is dead.

Questions 4th an 5th objected to by district attorney as seeking to establish by parol, matters which should be proved by the record.

Questions 7th and 8th objected to because there is no proof that there ever was a grant to Lazaro Piña, and because, in answer to 8th question, the witness is permitted to state "the result of the search," which is equivalent to giving his opinion upon the fact and unsworn statements of persons who have not been examined.

T. M. LEAVENWORTH.

Sworn to and subscribed September 3d, 1858, before me.

W. H. CHEVERS,
*U. S. Commissioner.*

Endorsed: Filed September 3d, 1858.

W. H. CHEVERS,
*Clerk.*

*Stipulation.*

United States District Court, northern district of California.

THE UNITED STATES vs. M. G. VALLEJO. } Transcript No. 153—D. C. No. 741.

It is hereby stipulated that the following deposition of Salvador Vallejo, taken in the case of T. M. Leavenworth, (Transcript No. 760, D. C. No. 333,) is admitted as evidence in this case, with a right reserved to the United States to recall the deponent for re-examination as claimant's witness, if required by the district attorney.

P. DELLA TORRE,
*U. S. Att'y.*
WM. BLANDING,
*Claimant's Att'y.*

November 9th, 1858.

*Deposition of Salvador Vallejo.*

No. 760. UNITED STATES LAND COMMISSION,
*San Francisco, March 30th,* 1855.

On this day, before Commissioner R. Augustus Thompson, came Salvador Vallejo, a witness on behalf of the claimant, in case No. 760, who, after being duly sworn, deposed as follows, his evidence being interpreted by the interpreter for the board:

Present, claimant's attorney and United States law agent.

In answer to question, witness states that his name is Salvador Vallejo; his age forty years, and residence Napa county, California.

1st question by claimant's counsel. Do you know Lazaro Piña; if yea, how long have you known him?

Answer. I have known him for more than twenty years, in Monterey and Sonoma. He resided in that valley, on the rancho called "Agua Caliente," from the year 1839 or 1840 until a short time before the American occupation of California.

2d question by same. What improvement, if any, did he make on said rancho, and what was the character of his occupation?

Answer. In the year 1840 he built an adobe house on the land, in which he lived with his family; he enclosed fields in the same year and sowed them in wheat, corn, and beans; he had the year before erected corrals, and had put about three hundred head of cattle on the place.

3d question by same. Do you know the arroyo formerly called the Arroyo del Rancho de Petal ma?

Answer. Yes, I know it; it is now known as the Rio de Sonoma, and divides the rancho of Petaluma from the town of Sonoma, and from the rancho of Agua Caliente.

*Cross-examination by U. S. Law Agent.*

Question by same. Do you know the boundaries of said rancho of Agua Caliente; and if yea, how do you know them?

Answer. Yes, I knew them before Piña made his petition for the land; I went on the place with him for the purpose of examining and fixing upon the boundaries.

2d question by same. Examine the maps contained in the expediente now shown you, marked Exhibit No. 1, R. T., and hereto annexed, and point out on the same the position of the house, and improvements described in your answer to question No. 2 of your examination in chief.

Answer. The house was situated near where the words "Casa del Rancho" occur on the map, on the right-hand side of the road leading from the pueblo of Sonoma, and about 400 yards from said road, and 600 or 1,000 yards from an arroyo that runs between the house and the pueblo. The sowings were on the opposite side of the road near the river, and near the southern corner of the rancho.

(Signed) SALVADOR VALLEJO.

Sworn to and subscribed before me, March 30th, 1855.

(Signed) R. AUG. THOMPSON,
*Commissioner.*

I, George Fisher, secretary to the board of United States land commissioners, do hereby certify, that the foregoing is a true and correct copy of Salvador Vallejo's deposition on file in this office, in case No. 760, T. M. Leavenworth, claimant, for Agua Caliente.

Witness my hand, this 7th July, A. D. 1855.

GEO. FISHER,
*Secretary.*

Endorsed: Filed January 3d, 1859.

W. H. CHEVERS,
*Clerk.*

*Deposition of Jose Matias Moreno.*

United States district court, northern district of California.

THE UNITED STATES
vs.
M. J. VALLEJO.

SAN FRANCISCO, *May 28th*, 1859.

On this day, before me, W. H. Chevers, a commissioner of the United States for the districts of California, duly authorized to administer oaths, &c., &c., came Jose Matias Moreno, a witness produced on behalf of the claimant in case No. 153, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California in case No. 741 on the docket of the said board of commissioners, and was duly sworn and testified as follows, his evidence being interpreted by Richard Tobin, a sworn interpreter:

Present, Wm. Blanding, counsel for claimant, and the U. S. attorney for the United States.

*Questions by Claimant's Counsel.*

1st question. What is your name, age, and place of residence?

Answer. Jose Matias Moreno; forty years of age; and reside in San Diego.

2d question. Look at the expediente No. 229, "Agua Caliente" ranch, of which a traced copy is filed in this case, marked Exhibit "A," W. H. C., the original of which is now produced from the archives, and now shown you, and say whether you recognise the signatures thereto, and which of them?

Answer. The signatures of Pio Pico, Augustin Olvera, Narcisso Botello, and Francisco de la Guerra, in this document, I know to be genuine; the other signatures in the document I do not know.

Cross-examination waived.

JOSE MATIAS MORENO.

Sworn to and subscribed May 28th, 1859, before me.

W. H. CHEVERS,
*U. S. Commissioner.*

Endorsed: Filed May 28th, 1859.

W. H. CHEVERS, *Clerk.*

*Deposition of Juan B. Alvarado.*

United States district court, northern district of California.

THE UNITED STATES }
vs. }
M. G. VALLEJO. }

SAN FRANCISCO, *May 28th*, 1859.

On this day, before me, W. H. Chevers, a commissioner of the United States for the districts of California, duly authorized to administer oaths, &c., &c., came Juan B. Alvarado, a witness produced on behalf of the claimant in case No. 153, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 741 on the docket of the said board of commissioners, and was duly sworn and testified as follows, his evidence being interpreted by Richard Tobin, a sworn interpreter.

Present, Wm. Blanding, counsel for the claimant, and Peter Della Torre, U. S. attorney.

*Questions by Claimant's Counsel.*

1st question. What is your name, age, and place of residence?

Answer. Juan B. Alvarado; 50 years of age; and reside at San Pablo, Contra Costa county, California.

2d question. Look at espediente No. 229, to the "Agua Caliente" ranch, of which a traced copy is filed in this case, marked Exhibit "A, W. H. C.," the original of which is now produced from the archives, and now shown you, and say whether you recognise the signatures thereto, and which of them?

Answer. With regard to all the signatures in this expediente, excepting those of Agustin Olvera, Narcisso Botello, and Francisco de la Guerra, I know them to be all genuine; and with regard to the signatures of the said Olvera, Botello, and de la Guerra, I believe them to be genuine, because I have seen them often; but as I have never seen either of those persons I have named sign their names, I cannot be positive.

3d question. Look at document now shown you, purporting to be "certificate of approval" of the departmental assembly of a grant for the same place (Agua Caliente) to Lazaro Piña, and say if you know the signatures attached thereto, and whether they are genuine or not, a traced copy of which is attached hereto, marked "Exhibit B, W. H. C."?

Answer. I know all the signatures on this paper to be genuine, with the exception of the signature of A. A. Henderson.

4th question. Do you know anything of the issuing of a grant referred to in said last document? If so, state what you know.

Answer. I understand that it refers to a grant which I made as governor to Lazaro Piña of the land called "Agua Caliente." I did make a grant to the said Piña for the lands known by the name of "Agua Caliente," I think in the year 1840.

5th question. State, if you remember, what were the contents of the grant?

Answer. As I remember, the grant was for a piece of land two leagues and a half long, by about a quarter of a league wide, bounded on one side by Wilson's ranch, on another by Petaluma creek, on another by Yountz ranch, and on the other by the lands of Sonoma.

6th question. Was the grant in the usual form?

Answer. It was a grant in the usual form with the usual conditions.

Cross-examination waived.

JUAN B. ALVARADO.

Sworn to and subscribed, May 28th, 1859, before me.

W. H. CHEVERS,
*U. S. Commissioner.*

Endorsed: Filed May 28th, 1859.

W. H. CHEVERS, *Clerk.*

*Traced copy of Extract from Jimeno's Index.*

Indice de los terrenos adjudicados y personas a quienes se les ha concedido.

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| Agua Caliente. | Con'do. | al Ciudadano Lazaro Piña.... | 229 |
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En este indice hay el numero de 433 espediente; pero pr. equivocacion se paso en la numeracion del 329 al 340, habiendo seguido en la misma.

MAN'L JIMENO.

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, J. W. Mandeville, surveyor general of the United States for the State of California, and as such, having in my office, and in my charge and custody, a portion of the archives of the former Spanish and Mexican territory or department of Upper California, as also the papers of the late board of commissioners to ascertain and settle the private land claims in California, by virtue of the power vested in me by law, do hereby certify, that the one preceding and hereunto annexed page of tracing paper, numbered one inclusive, exhibits a true, full and correct copy of a portion of a document, as the same appears on file among said archives.

In testimony whereof, I have hereunto signed my name officially, and caused my seal of office to be affixed, at the city of [SEAL.] San Francisco, this 30th day of May, 1859.

J. W. MANDEVILLE,
*U. S. Surveyor General for California.*

Examined and found correct.

R. C. HOPKINS,
*Keeper of Archives.*

Endorsed: Filed June 3d, 1859.

W. H. CHEVERS,
*Clerk.*

*Opinion by his Honor Judge Ogden Hoffman.*

THE UNITED STATES
vs.
M. G. VALLEJO.

This case has been submitted without argument, the district attorney not disputing the genuineness of the claim. The original

grant is not produced. Its non-production, however, is not a ground for suspicion, for the grantee was killed during the war, and after search the grant could not be found.

The expediente is found in the archives, duly numbered as its date required, and the grant is noted with its appropriate number, the names of the grantee, and of the land granted, in Jimeno's index. A certificate of confirmation by the departmental assembly is also attached to the expediente, dated October 8th, 1845, and on reference to the journal of that body the report, reference to the committee on vacant lands, the report of that committee, and the resolution of approval, are found duly recorded.

The signatures to all the documents in the expediente are proved to be genuine, and all the preliminary proceedings, and the issuance of the grant, appear to have been strictly regular.

The occupation of the tract by Piña, the grantee, from a date long anterior to that on which the grant was approved by the assembly, is also shown. The proofs of the validity of this claim are therefore as full and as reliable as could be offered in support of any grant made by the former government of this country. There can be no doubt but that it should be confirmed. The contents of the lost grant are proved not only by parol testimony, but by the concession and the approval of the departmental assembly.

The claim has been presented by M. G. Vallejo. The conveyance from Peña to him appears to have been made before the grant was obtained by the former.

This court has no jurisdiction to inquire in the present proceeding into any questions of private right between the heirs or devisees of the grantee and the present claimant. The decree of confirmation must, therefore, be made to M. G. Vallejo, claimant, or to the legal representatives of the deceased grantee, whoever *they* may be, and without prejudice to the rights of any one who may be lawfully entitled under him.

*Inclosed*: Filed July 5th, 1859.

W. H. CHEVERS, *Clerk.*

*Decree.*

United States District Court, northern district of California.

THE UNITED STATES, Appellee,
vs.
M. G. VALLEJO, Appellant.
} No. 153.—Agua Caliente.

Stated term, July 5th, 1859.

On appeal from the final decision of the board of commissioners to ascertain and settle land claims in the State of California.

*Decree.*

This cause came on to be heard on appeal from the final decision of the board of commissioners to ascertain and settle private land claims in the State of California, under the act of Congress approved March 3d, 1851, upon the transcript of the proceedings and decision of said board, and upon the evidence adduced in this court, and counsel for the respective parties having been heard—

It is ordered, adjudged and decreed that the decision of the said board be, and the same is hereby vacated, annulled, and reversed.

And it is further ordered, adjudged, and decreed, that the claim of the appellant is a good and valid claim, and that the same be and is hereby confirmed.

The land of which confirmation is made is situated in the present county of Sonoma, and is of the extent of two leagues and a half in length by a quarter of a league in width, and known by the name of Agua Caliente, and is bounded on the southwest by the arroyo of the rancho of Petaluma, on the southeast by the town of Sonoma, on the north by the hills and mountains which intervene and separate the rancho of George Yount, and on the northwest by the rancho of Mr. John Wilson, being the same land which was granted to Lazaro Peña by Governor Alvarado, reference being had for a more particular description to the petition of Lazaro Peña, dated 14th October, 1839; the decree of concession by Governor Alvarado, dated 13th July, 1840; the map in the expediente, and the approval of the departmental assembly, certified copies of which are on file in the case: provided, that this confirmation of the above land to the said M. G. Vallejo shall be without prejudice to the rights of the legal representatives of Lazaro Peña, the original grantee, or whoever may be entitled to said lands under him; and said confirmation to said Vallejo shall inure to the benefit of any person or persons who may own or be entitled to said land by any title, either at law or in equity, derived from the original grantee, by deed, devisee, descent, or otherwise.

OGDEN HOFFMAN,
*Dis't Judge.*

Endorsed: Filed July 13th, 1859.

W. H. CHEVERS, *Clerk.*

*Order granting Appeal.*

At a stated term of the district court of the United States of America for the northern district of California, held at the courthouse, in the city of San Francisco, on Wednesday, the twenty-sixth day of October, in the year of our Lord one thousand eight hundred and fifty-nine.

Present the Honorable Ogden Hoffman, district judge.

THE UNITED STATES vs. M. G. VALLEJO. } No. 153.—L. C. 741.

In this case, on application of J. R. Wise, esq., acting United States attorney, it is ordered that an appeal in behalf of the United States, from the final decision of this court, rendered in said cause at the present term, be, and the same is hereby granted; and that a certified transcript of the pleadings, evidence, depositions, and proceedings in the said cause, be sent to the supreme court without delay.

Endorsed: Filed October 26th, 1859.

W. H. CHEVERS, *Clerk.*

I, W. H. Chevers, clerk of the district court of the United States for the northern district of California, do hereby certify that the annexed and foregoing, consecutively numbered forty-eight pages, contain a full, true, and correct transcript of the record from the board of U. S. land commissioners, and of the pleadings, proceedings, and evidence in, and the opinion, decree, and order granting appeal of this court, filed in this office in the case of the United States v. M. G. Vallejo, No. 153.

In testimony whereof, I have hereto set my hand and affixed the seal of said court, at San Francisco, Cal'a, this 14th [SEAL.] day of November, A. D. 1859, and of our independence the 84th.

W. H. CHEVERS, *Clerk.*

Filed 2d March, 1860.

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# SUPREME COURT OF THE UNITED STATES.

No. 97.—December Term, 1861.

THE UNITED STATES

vs.

M. G. VALLEJO.

The decree of the court below confirmed the claim made in the name of the appellee to a tract of land in California called "Agua Caliente," alleged to have been duly granted, in 1840, to one Lagaro Pina, under whom the appellee claimed. The grant was not produced, but its loss was accounted for, and the genuineness of the title papers, which were produced, and of the claim itself, as is stated in the opinion of Judge Hoffman, (Record, p. 25,) were not disputed. The case appears to include no questions of law; and the facts being admitted, as well as sufficiently proved otherwise, it is submitted, that there is no ground for the appeal. The dates of the said title papers are not here given, as they are fully and succinctly set forth in the transcript.

JOHNSON & PHILLIPS,
*For Appellee.*

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# SUPREME COURT OF THE UNITED STATES.

No. 97.

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THE UNITED STATES, APPELLANTS,

vs.

M. G. VALLEJO.

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BRIEF FOR THE UNITED STATES.

This claim is founded upon a grant from Governor Alvarado to Lazaro Piña, of the date of July 13, 1840. The original grant was not produced, and is supposed to have been lost during the American war, in which the grantee was killed. The espediente is numbered by Jimeno and noted in his index. It exists complete among the genuine archives. The journals of the departmental assembly show that the grant was approved October 8, 1845. Piña, the grantee, occupied the land for many years.

The *only* objection to the confirmation of this title to the present claimant is, that the conveyance from the grantee to Vallejo, under which the latter claims, is dated December 4, 1839, whereas the grant was not made until July 13, 1840.

EDWARD BATES,
*Attorney General.*

J. S. BLACK,
J. F. SHUNK,
*Assistant Counsel.*